

SAN FERNANDO POLICE DEPARTMENT

MEMORANDUMINSTITUTE OF GOVERNMENTAL
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OCT 4 - 1991

UNIVERSITY OF CALIFORNIA

TO: All Personnel

FROM: Dominick J. Rivetti, Chief of Police

DATE: September 17, 1991

SUBJECT: Enforcement of Las Palmas Park Ordinance

On Monday, September 16, 1991, the City Council of the City of San Fernando enacted an urgency ordinance prohibiting active members of criminal street gangs from entering Las Palmas Park. This action was seen as vital to the safety of members of the public wanting to use the park. Attached is a copy of this ordinance.

Because of the limited scope and the notification requirements of the ordinance, enforcement of the ordinance will be limited to:

Special Problems Unit
Detectives
Field Training Officers
Officers Steaman and Ruelas

Below are the procedures for these officers:

1. Each gang member will be notified that they are a gang member through the step process.
 - a. The gang members are stopped, identified and given an information sheet regarding penal code section 186.22. A card regarding this notification is completed and the gang member is asked to sign the card. Should the gang member refuse to sign the card, this is noted on the card.
 - b. The file of these notification cards is maintained by Special Problems Unit.
2. Each gang member will be notified of the ordinance forbidding their presence in Las Palmas Park.
 - a. This will be performed by a member of the above group of officers.
 - b. A Field Interview card will be completed of each person notified. On the card it will be noted that this person was notified of the ordinance.

c. These cards will be forwarded to Special Problems Unit, who will maintain the file of the cards. Officer Langston will prepare a list of those gang members that have been notified of their status as gang members and have been notified of the ordinance. This list will be distributed to members of the above enforcement group.

3. The members of the enforcement group will use this list to enforce the city ordinance. It is stressed that all contacts will be made in a low-key, highly professional manner.
4. After a citation has been issued, should the gang member refuse to leave the park, the officer may, using discretion, choose to arrest the gang member for violation of penal code section 148.

In addition, support from all personnel will be essential to the effectiveness of this program. Officers should patrol in the southwest quadrant of the city (west of Mission Boulevard and south of San Fernando Road) frequently. Officers should be alert for violations of drinking in public, being under the influence of alcohol or drugs, or any other crimes and take an active enforcement stance, particularly with known gang members.

DOMINICK J. RIVETTI
Chief of Police

ATTACHMENTS:

1. PC 186.22 Notice
2. DA form 1711
3. City ordinance

L.A. Anti-Gang Laws Go Too Far, ACLU Says

Washington Post

Los Angeles

The American Civil Liberties Union, in a clash with local and national attempts to curb rampant gang activity, has challenged the constitutionality of an ordinance banning gang members from a San Fernando park.

The city ordinance bans members of two gangs, the Shakin' Cats and the SanFers, from entering Las Palmas Park in San Fernando. They face stiff fines if they violate the ban. The measure was adopted in September after a woman and her three children were wounded in a gang cross fire.

The ACLU charges that the ordinance violates the First Amendment right to free assembly and will be a mere "quick fix" to a complex crime problem as gang members simply move their activity to other communities.

The city of Los Angeles, with the support of District Attorney Ira Reiner, is considering a similar measure to cut gang activity in public recreational areas. Pomona recently adopted such a curb, but similar attempts nationally to slow the spread of gang-related crime also have been met with ACLU resistance.

Loren Siegel, an ACLU lawyer, said the San Fernando ordinance is a close cousin of local statutes being enacted nationally to deal with gang and drug problems. But their emphasis, she said, is misplaced, resulting in wrongful arrests and violation of rights instead of comprehensive programs to battle severe social problems associated with gangs.

"Some of these ordinances have been incredibly oppressive," she said. "And they've become a trend that many municipalities are enacting."

Michael Genelin, a deputy district attorney who heads Los Angeles County's hard-charging anti-gang prosecution unit and whose office drafted the San Fernando ordinance, said the ACLU's claims of constitutional violation are "an absurdity."

But Siegel cited as an example a loitering statute in Virginia under which, she said, two people who are seen exchanging small objects can be arrested, regardless of whether they are exchanging drugs or a telephone number.

"The laws are overly broad and encompass illegal as well as perfectly legal activities," she said. Legislators "are creating pockets of martial law around the cities where people can't move around freely."

Genelin disagreed, saying, "You don't have the right to free criminal assembly. You wouldn't call the Mafia a social organization like the Elks. There's a big difference. It's the same with these gangs."

According to Genelin, three reputed gang members have been "ticketed" in the three months since the San Fernando ordinance was passed. Las Palmas Park, which he described as overrun by "guerrilla warfare," has become a prime example of the "urban reclamation process," he said.

San Francisco Chronicle, 12/28/91, p. A15.

1 IRA REINER
2 DISTRICT ATTORNEY
3 Criminal Courts Building
4 Room 18000
5 210 West Temple Street
6 Los Angeles, California 90012
7 (213) 974-3904

8
9 IN RE: THE MATTER OF
10 THE SHAKEN CATS MIDGETS GANG
11

12
13 (San Fernando P.D.)
14

NOTICE OF DETERMINATION
THAT THE SHAKEN CATS MIDGETS
GANG IS A CRIMINAL STREET
GANG WITHIN THE MEANING OF
PENAL CODE SECTION 186.22

15 TO: MEMBERS OF THE SHAKEN CATS MIDGETS GANG AND
16

17 YOU ARE HEREBY NOTIFIED that the SHAKEN CATS MIDGETS GANG is a criminal
18 street gang engaging in a pattern of criminal street gang activity within the meaning of Penal
19 Code Section 186.22. The gang has demonstrated this pattern by participating in the
20 commission, attempted commission or solicitation of two or more crimes involving the offenses
21 of 1) Assault with a deadly weapon, 2) Robbery, 3) Homicide or manslaughter, 4) Sale or
22 possession for sale of narcotics and controlled substances, 5) Shooting into an inhabited
dwelling or vehicle, 6) Arson, and 7) Witness intimidation with one or more of the offenses
occurring after September 24, 1988 and the last of those offenses within three years after a
prior offense.

23 YOU ARE FOR THIS REASON FURTHER NOTIFIED THAT ACTIVE
24 PARTICIPATION IN A CRIMINAL STREET GANG COULD SUBJECT YOU TO
IMPRISONMENT IN THE STATE PRISON FOR A PERIOD OF UP TO THREE YEARS
PURSUANT TO THE STREET TERRORISM ENFORCEMENT ACT OF 1988.

25 DATED: AUGUST 28, 1991
26



IRA REINER
District Attorney of
Los Angeles

A handwritten signature in cursive script, appearing to read "Ira Reiner", written over a horizontal line.

POLICE AGENCY

DATE

TIME

I do hereby acknowledge receipt of the notification that the
_____ is a criminal street gang
NAME OF GANG
within the meaning of Penal Code 186.22.

DATE OF BIRTH

SIGNATURE OF RECIPIENT

PRINT NAME OF RECIPIENT & ID #

I have personally served a copy of this notification upon the person
of the recipient.

NAME & SERIAL NUMBER OF NOTIFYING OFFICER

Additional Comments: _____

[If possible, please obtain thumb print on back of card.]

DA-1711-AA-76N732-Rev. 1/90

AN URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN FERNANDO PROHIBITING
ACTIVE MEMBERS OF CRIMINAL STREET
GANGS FROM ENTERING LAS PALMAS PARK

WHEREAS, the City Council of the City of San Fernando has held an evidentiary hearing at which evidence was presented, including the testimony of witnesses; and

WHEREAS, the evidence illustrates that Las Palmas Park in the City of San Fernando is in a state of crisis caused by the presence therein of members of criminal street gangs who pose a threat to both peaceful citizens of the City of San Fernando using the park, as well as to each other; and

WHEREAS, the evidence further illustrates that members of the rival criminal street gangs have caused serious injuries to members of the public in and around Las Palmas Park as a result of shootings, including several such instances in the last few months; and

WHEREAS, the evidence discloses that Las Palmas Park has become the subject of a territorial conflict ("turf war") between rival criminal street gangs; and

WHEREAS, the crisis results from the presence of members of criminal street gangs in Las Palmas Park, these street gang members intending to commit violent crimes against members of the public, or upon each other because of the rivalry between gangs, which results in injury not only to warring gang members but also to innocent members of the public; and

WHEREAS, the evidence presented to this City Council demonstrates that the presence of criminal street gang members in Las Palmas Park creates a serious threat to public safety, and a clear and present danger to any member of the public using this park; and

WHEREAS, the evidence further demonstrates that an emergency exists in Las Palmas Park, with the activity of criminal street gangs interfering with the personal safety and liberty of its citizens and that the general public's health, safety, and welfare in and around Las Palmas park is continually threatened by criminal street gang activities; and

WHEREAS, it is the desire of the City Council to protect the public from being injured, maimed, and threatened while using Las Palmas Park; and

WHEREAS, the only practical, realistic, and fiscally possible method to provide the desired protection to the public is by preventing criminal street gang members from entering Las Palmas Park, thereby terminating the park's status as disputed "turf," eliminating the substantial threat that members of the public will fall victims to violence by gang members aimed at or intended for members of rival gangs in Las Palmas Park, and protecting peaceful users of the park from acts of gang violence aimed directly at members of the public; and

WHEREAS, this City Council desires to immediately implement such a prohibition to control the state of emergency and to prevent further injuries or the loss of life as might otherwise occur.

NOW, THEREFORE, the City Council of the City of San Fernando DOES HEREBY ORDAIN as follows:

Section 1: Incorporation by Reference.

The foregoing recitals are determined to be true and correct and are hereby incorporated by reference.

Section 2: Findings and Declaration of Intent.

It is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm while using Las Palmas Park. It is not the intention of this Urgency Ordinance to interfere with the exercise of the Constitutionally protected rights of freedom of expression and association of any group or individual. It is the Constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, and to lawfully associate with others who share similar beliefs.

However, Las Palmas Park in the City of San Fernando is in a state of crisis which has been caused by criminal street gangs whose members threaten, terrorize, and commit a multitude of crimes against both the peaceful citizens of San Fernando, and against members of rival gangs. These activities both individually and collectively are not Constitutionally protected, and present a clear and present danger to public safety, especially to those members of the public who frequent and use Las Palmas Park. The City Council finds that in the last few months several members of the general public who were not gang members, including several small children, fell victim to shootings in Las Palmas Park caused by rival criminal street gangs operating in San Fernando. These gangs pose a particular threat to the public by their presence in Las Palmas Park in that each gang's members are likely to be targeted for acts of violence by rival street gang members.

Further, members of the public become victims of criminal street gang shootings both because of the presence of members of criminal street gangs in Las Palmas Park intending to commit violent crimes upon the public, and because of the presence of gang members intended as victims of the violent acts by members of rival gangs due to their affiliation with, association with, or membership in a particular street gang.

It is the intention of the City Council to prevent further injury and loss of life among members of the public utilizing or frequenting Las Palmas Park as a result of violent acts of members of criminal street gangs. The only practical, realistic and fiscally feasible method of preventing and deterring the aforesaid acts of violence is to prohibit the presence of members of criminal street gangs in Las Palmas Park.

Section 3: Definitions.

A. Criminal Street Gang.

As used in this Urgency Ordinance "Criminal Street Gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in Section 3C hereof which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, and which gang operates as such in and around Las Palmas Park.

B. Active Member of a Criminal Street Gang.

For purposes of this Urgency Ordinance, "Active Member of a Criminal Street Gang" shall be defined as any person who willfully, knowingly and actively participates in a Criminal Street Gang as defined herein.

C. Pattern of Criminal Gang Activity.

As used in this Urgency Ordinance "Pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two or more of the following offenses, provided at least one of those offenses occurred after the effective date of Penal Code Section 186.22 and the last of those offenses occurred within three years after a prior offense, and the offenses are committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245 of the California Penal Code.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of title 8 of Part 1 of the California Penal Code.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056 11057 and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246 of the California Penal Code.

(6) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13 of the California Penal Code.

(7) The intimidation of witnesses and victims, as defined in Section 136.1 of the California Penal Code.

(8) Grand theft of any vehicle, trailer or vessel as described in Section 487h of the California Penal Code.

Section 4. Prohibition of Presence in Las Palmas Park.

No active member of a criminal street gang, as defined herein, shall at any time willfully enter or be present in that certain property within the City of San Fernando known as Las Palmas Park located at 505 South Huntington Street, San Fernando, California.

Section 5: Violations.

Any person violating the provisions of this ordinance shall be guilty of an infraction, and shall be punished by a fine not to exceed \$250.00.

Section 6: Enforcement.

In enforcing the provisions of this Urgency Ordinance, the San Fernando Police Department shall not base any determination that an individual is a criminal street gang member on race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap.

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